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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 Shawn H. Force,

10 Plaintiff,

11 vs.

12 Nicholas J. Brazeau Jr.,

13 Defendant.

Case No. CV-24-00037-PHX-DGC

ORDER

14
15 Pro se Plaintiff Shawn Force has filed a complaint against Defendant Nicholas
16 Brazeau Jr. and an application to proceed in forma pauperis (“IFP”). Docs. 1, 2. The
17 Court will grant his application, screen his complaint, and dismiss the complaint for
18 failure to state a claim.

19 **I. Motion for IFP Status.**

20 Plaintiff attaches an affidavit on a court-approved form showing that he receives a
21 total monthly income of \$3,767.01 from disability benefits and has monthly expenses of
22 \$4,240.00. The affidavit shows that he cannot pay or give security for fees and costs and
23 still provide himself with the necessities of life. *See Adkins v. E.I. DuPont de Nemours &*
24 *Co.*, 335 U.S. 331, 339 (1943). His motion for IFP status will be granted.

25 **II. Screening of Complaints.**

26 In IFP proceedings, a district court “shall dismiss the case at any time if the court
27 determines” that the action “fails to state a claim on which relief can be granted[.]” 28
28 U.S.C. § 1915(e)(2). Although much of § 1915 concerns prisoner litigation, § 1915(e)

1 applies to all IFP proceedings. *Lopez v. Smith*, 203 F.3d 1122, 1126 n.7 (9th Cir. 2000)
 2 (en banc). “[S]ection 1915(e) not only permits but requires a district court to dismiss an
 3 [IFP] complaint that fails to state a claim.” *Id.* at 1127. A district court dismissing a
 4 claim under this section “should grant leave to amend even if no request to amend the
 5 pleading was made, unless it determines that the pleading could not possibly be cured by
 6 the allegation of other facts.” *Id.* (citations omitted).

7 Dismissal is appropriate where a complaint lacks a cognizable legal theory, lacks
 8 sufficient facts alleged under a cognizable legal theory, or contains allegations disclosing
 9 some absolute defense or bar to recovery. *See Balistreri v. Pacifica Police Dept.*, 901
 10 F.2d 696, 699 (9th Cir. 1988); *Weisbuch v. County of L.A.*, 119 F.3d 778, 783, n. 1 (9th
 11 Cir. 1997).

12 **III. Dismissal is Warranted.**

13 Plaintiff currently is engaged in civil proceedings in Wisconsin state court. Last
 14 week, on January 4, 2024, Defendant Nicholas Brazeau Jr., a Wisconsin circuit court
 15 judge, entered an injunction against Plaintiff that requires him to surrender his firearms.
 16 Doc. 1 at 5. Plaintiff asks this Court to prevent Judge Brazeau’s order from taking effect,
 17 arguing that the order violates Plaintiff’s rights under the First, Second, and Fourteenth
 18 Amendments to the U.S. Constitution and the Supremacy Clause. He also argues that the
 19 Wisconsin state court does not have jurisdiction over him. Doc. 1 at 3-4. Plaintiff’s
 20 claim is legally defective for at least two reasons.

21 **A. *Rooker-Feldman* Doctrine.**

22 The *Rooker-Feldman* doctrine, which takes its name from *Rooker v. Fidelity Trust*
 23 *Co.*, 263 U.S. 413 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460
 24 U.S. 462 (1983), bars federal district courts from exercising subject matter jurisdiction
 25 over direct or “de facto” appeals from state court judgments. *Cooper v. Ramos*, 704 F.3d
 26 772, 777 (9th Cir. 2012). “It is a forbidden de facto appeal under *Rooker-Feldman* when
 27 the plaintiff in federal district court complains of a legal wrong allegedly committed by
 28

1 the state court, and seeks relief from the judgment of that court.” *Id.* (quoting *Noel*, 341
2 F.3d at 1163).

3 The doctrine “applies even where the challenge to the state court decision involves
4 federal constitutional issues[.]” *Benavidez v. Cnty. of San Diego*, 993 F.3d 1134, 1142-
5 43 (9th Cir. 2021) (cleaned up). “[T]he doctrine applies to both final and interlocutory
6 decisions from a state court,” and “exists to protect state courts from collateral attack by a
7 federal judgment.” *Id.* (citations omitted). Lawsuits asking a federal court to interfere
8 with a state court case are dismissed under the *Rooker-Feldman* doctrine. *See, e.g.,*
9 *Javidi v. Superior Ct.*, No. 21-CV-05393 SBA, 2022 WL 2439177, at *2–3 (N.D. Cal.
10 July 5, 2022); *Kohlmann v. Larsen*, No. CV-22-08207-PCT-SMM, 2023 WL 1782023, at
11 *9 (D. Ariz. Feb. 6, 2023).

12 **B. *Younger* Abstention.**

13 The abstention doctrine established by the Supreme Court in *Younger v. Harris*,
14 401 U.S. 37 (1971), states that federal courts may not interfere with pending state judicial
15 proceedings “if the state proceedings are (1) ongoing, (2) implicate important state
16 interests, and (3) provide the plaintiff an adequate opportunity to litigate federal claims.”
17 *H.C. v. Koppel*, 203 F.3d 610, 613 (9th Cir. 2000) (citations omitted). When *Younger*
18 abstention is warranted, the case must be dismissed. *Id.*

19 The proceedings involving Plaintiff in Wisconsin are ongoing because Plaintiff
20 has not yet exhausted the state appeals process. Wisconsin law provides that a party has
21 45 days after a final circuit court judgment or decision to file an appeal. Wis. Stat.
22 Ann. § 808.04(1). Because the injunction against Plaintiff was entered on January 4,
23 2024, Plaintiff has until February 19, 2024 to appeal the court’s decision.

24 The Wisconsin court order implicates an important state interest. Attachments to
25 Plaintiff’s complaint show that the dispute arises out of child custody issues between
26 Plaintiff and the mother of his child, and a petition by the mother for an injunction
27 against Plaintiff. Doc. 1 at 7-28. “When family law is at issue, federal courts have held
28 abstention is ‘particularly appropriate.’” *Climate Change Truth, Inc., v. Shipley*, No.

1 3:22-CV-663-AR, 2022 WL 1443244 (D. Or. May 6, 2022) (citing *Friends of Children,*
2 *Inc. v. Matava*, 766 F.2d 35, 37 (1st Cir. 1985)); *see also Coats v. Woods*, 819 F.2d 236,
3 238 (9th Cir. 1987).

4 Plaintiff has an adequate opportunity to present his federal claims in state court.
5 He raised his constitutional and jurisdictional arguments in a motion to dismiss in the
6 state court and was provided a hearing. Doc. 1 at 14-15, 18-21. He may raise his
7 concerns again on appeal.

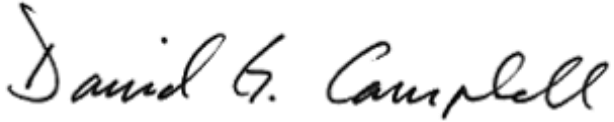
8 **C. Conclusion.**

9 This action is barred by the *Rooker-Feldman* and *Younger* doctrines, a defect that
10 cannot be cured by amendment. The Court accordingly will dismiss this action.

11 **IT IS ORDERED:**

- 12 1. Plaintiff's application to proceed in forma pauperis (Doc. 2) is **granted**.
13 2. Plaintiff's complaint (Doc. 1) is **dismissed**.
14 3. The Clerk of Court is directed to terminate this matter.

15 Dated this 11th day of January, 2024.

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19 David G. Campbell
20 Senior United States District Judge
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